

CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

Complaint
28 U.S.C. 1983 sectionIN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXASADMINISTRATOR of the decedent's VAL VERDE DIVISION
GARCIA DE LA LARA MARTHA

RECEIVED

pro se

Plaintiff's Name and ID Number

JUN - 5 2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Place of Confinement

BY

DEPUTY CLERK

CASE NO.

Martinez Angel MD, Purita RN, Virdianna RN

(Clerk will assign the number)

TERI RN, Janie PCP, LORIE RN, ERIC Julie RN

v. In their individual capacity

SA 24CA0682 XR

Defendant's Name and Address

801 Bedell Avenue
Del Rio, Tx 78840

Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

Jurisdiction

Any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any act of congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$55.00 for a total fee of **\$405.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$55.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:
Plaintiff(s) _____
Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: _____

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? YES NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Ms. Alicia Lara 527 Jeffery Dr. Del Rio Tx 78840

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant#1: Teri RN address 801 Bedell Av. Del Rio Tx. 78840

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failed to act reasonably by not providing adequate treatment and acted deliberate indifference

Defendant#2: Gregory J. Boys address 801 Bedell Av. Del Rio Tx. 78840

Failed to act reasonably by not providing adequate treatment and acted deliberate indifference

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant#3: Punita RN Nurse on Duty address 801 Bedell Av. Del Rio Tx. 78840

Failed to act reasonably by not providing adequate treatment and acted deliberate indifference

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant#4: Virdiana RN Charge Nurse address 801 Bedell Av. Del Rio Tx. 78840

Failed to act reasonably by not providing adequate treatment and acted deliberate indifference

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: MARTINEZ Angel MD address 801 Bedell Av. Del Rio Tx 78840

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failed to act reasonably by not providing adequate treatment and acted deliberate indifference and failed as the gatekeeper to Ms. Martha medical serious need.

IV. Parties To This Suit

B. Full name of each defendant, his official position, his place of employment and his full mailing address.

Defendant #6 Janie DCP 801 Bedell Av. Del Rio Tx. 78840

Briefly describe the acts or omissions of this defendant which you claimed harmed you. failed to respond reasonably and acted inadequate with deliberate indifference to Ms. Martha serious medical need.

Defendant #7 Lorie RN 801 Bedell Av. Del Rio Tx. 78840

Briefly describe the acts or omissions of this defendant which you claimed harmed you failed to respond reasonably and acted inadequate with deliberate indifference to Ms. Martha serious medical need.

Defendant #8 Eric Julie Rn address 801 Bedell Av. Del Rio Tx. 78840

Briefly describe the acts or omissions of this defendant which you claimed harmed you. failed to respond reasonably and acted inadequate with deliberate indifference to Ms. Martha serious medical need.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

" See Attachment "

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes. Wherefore, the Plaintiff respectfully pray that this Honorable Court does:

- A) Declares that the acts & omissions described therein violated the Plaintiff's rights under State law or the United States;
- B) Order the defendant's to pay compensatory damage of 6,000,000 dollars and punitive damage of 6,000,000 and equitable relief for every tear my family suffer in the absent of my mother
- C) Order the defendant's to pay reasonable attorney fees, including all court costs & fines and
- D) Grant any & all other just and equitable relief that this Honorable court does deems necessary by law

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date sanctions were imposed: _____

STATEMENT OF CLAIMS

V.

SUPPORTING FACTS:

1. Ms. Martha on 6/14/22 went to the Val Verde Regional Medical Center for an anxiety attack. Toledo, Claudio was the health care provider who tend Ms. Martha and conducted a xRay of chest and found a cardiac enlargement.
2. Ms. Martha on 6/14/22 complaint of shortness of breathness which she had history of hypertension and congestive heart failure and among other issues.
3. Ms. Martha was discharge on 6/15/22.
4. The primary care provider was Martinez Angel MD and on 6/16/22 he conducted an ultrasound of the abdomen as a result of liver problems.
5. On 7/1/22 Ms. Martha went to Val Verde Regional Medical Center because she had an anxiety attack, medical staff failed to place on Ms. Martha a safety strap Nurse on duty that day 7/1/22 where Ms. Purita, Charge nurse Viridiana, Nurse Supervisor Teri RN, PCP Janie, Charge Nurse Lorie and Erica Julie, and physician Martinez Angel MD, they also failed to put her on observation area because she was on medication as well her medical condition anxiety attack symptoms of distress, panic, afraid, worried, alarm where signs that she needed to be monitor carefully and be attentive of her.
6. Medical staff left Ms. Martha unattended for a period of time with any protection or supervision, observation area, without the safety strap on 7/1/22 and the following day also.
7. On 7/2/22 Ms. Martha woke up 9:37 pm unattended without the above medical procedures to protect Ms. Martha well being but medical staff failed to take reasonable measures to assured that Ms. Martha was well taken care of and was protect in case of such event.
8. Ms. Martha as a result of medical staff deliberate indifference caused Ms. Martha to suffer a fall that caused her posterior scalp hematoma with a linear nondisplaced left parasagittal occipital bone fracture. Traumatic subdural hematoma was presented over the right frontal temporal convexity. Milder blood products over the left frontal lobe inferiorly scattered subarachnoid hemorrhage also present at this location. The subdural collection measured 5mm wide.

Claim #1 Plaintiff Mother was subjected to deliberate indifference in violation of the 8th Amendment to the Constitution.

9. Plaintiff incorporates paragraph 1 to 8 as though they were stated fully herein.

10. Defendants Martinez, Angel, Gregory Boys Rn, Virdiana Rn, Teri Rn, Janie, Lorie Rn violated plaintiff's Eighth Amendment right by failing to respond reasonably by not providing adequate treatment and they acted with deliberate indifference to Ms. Martha serious medical needs.

11. Ms. Martha had a anxiety attack when she went into the Val Verde Regional hospital and she needed to be examined as well technical examination as well medication treatment to calm her down as a result to her anxiety attack which she was feeling distress, panic, afraid, worried, alarm as well she was check in the hospital do to panic attack for the next two days 7/1/22 and 7/2/22

12. The above medical staff personnel failed to respond reasonably by providing her adequate treatment, Medical staff working on those days above failed to keep Ms. Martha medical condition supervised, keep her on observation area, strap her to the bed do to her symptoms and on medication which they failed to do so.

13. Defendants, Ms Purita, Virdianna, Teri, Janie, Lorie, Erica Julie, Martinez when deliberate indifference caused Ms. Martha to wake up on medication unconsciously, without straps to the bed for safety to fall and caused her a head injury that caused her death.

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division):
2. Case number:
3. Approximate date warning was issued:

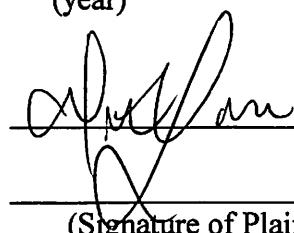
Executed on: 6-3-24
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 6 day of June, 20 24.
(Day) (month) (year)



(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.